

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION**

DAVID A. STEBBINS

PLAINTIFF

v.

NO. 3:17-CV-3092-TLB

**STATE OF ARKANSAS, ARKANSAS
REHABILITATION SERVICES, AND
AMY JONES**

DEFENDANTS

**DEFENDANTS' RESPONSE IN OPPOSITION TO PLAINTIFF'S
SUPPLEMENT (DE 152)**

Come now the Defendants, the State of Arkansas, Arkansas Rehabilitation Services ("ARS"), and Amy Jones, by and through their attorneys, Attorney General Leslie Rutledge and Senior Assistant Attorney General Christine A. Cryer, and for their Response in Opposition to Plaintiff's Supplement, state as follows:

1. On October 31, 2017, this Court issued its Amended Case Management Order (DE 101). In the Order, this Court set a deadline for filing dispositive motions. The deadline was January 5, 2018.

2. Plaintiff has filed a numerous¹ dispositive motions in this matter: (a) 12/23/16 First Motion for Summary Judgment (DE 25); (b) 09/28/17 Second Motion for Summary Judgment (DE 79); and (c) 01/02/18 Third for Summary Judgment (DE 123).

3. On January 18, 2018, Plaintiff filed a pleading styled "Supplement" to his dispositive motions. (DE 152)

¹ Defendants are not including Plaintiff's Fourth Motion for Summary Judgment since it was stricken from the record on January 19, 2018 as untimely. (DE 154)

4. Plaintiff's proposed Supplement was untimely filed; therefore, it should be denied and stricken from the record.

5. If this Court were to determine that Plaintiff's Supplement was not untimely, it should nevertheless be denied as Plaintiff offers nothing new in support of his motions. Plaintiff incorrectly opines that because Ms. Leslie Johnson is not a medical doctor, and is not being called by the Defendants as an "expert" witness, she is unqualified to testify thus collapsing the Defendants' entire case. Plaintiff is mistaken. Ms. Johnson was timely identified as a fact witness. She has been identified as a witness for trial as well as a person with knowledge of the underlying facts of this case. Ms. Johnson will be called to testify as a fact witness as to her knowledge and her work performed in analyzing Plaintiff's records.

6. Ms. Johnson is allowed to testify what she did, how she did it, and what she based her decisions on, including her education and experience.

7. Defendants did not need to identify a medical expert to testify as they are not challenging Plaintiff's diagnosis of Asperger's or any other diagnosis he has been given and was identified in the records previously produced. If a medical expert were required, then Plaintiff's case would collapse as he failed to identify a medical expert, and as he has previously indicated, the deadline to do so has passed.

8. For the reasons stated, Plaintiff's Supplement should be denied and stricken from the record

WHEREFORE, Defendants respectfully request this Court deny Plaintiff's Supplement, deny his motions, and dismiss his Complaint with prejudice, along with any and all other just and proper relief to which they may be granted.

Respectfully submitted,

Leslie Rutledge
Attorney General

By: /s/ Christine A. Cryer
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CERTIFICATE OF SERVICE

I, Christine A. Cryer, Senior Assistant Attorney General, do hereby certify that on January 25, 2018, I emailed a copy of the motion to Plaintiff David Stebbins as the following email address:

stebbinsd@yahoo.com

A copy is being emailed to Mr. Stebbins because the Office of the Arkansas Attorney General is closed today and the mail will not be picked up today.

I, Christine A. Cryer, Senior Assistant Attorney General, do hereby certify that a copy of this pleading will be mailed, via regular U.S. mail, to Mr. Stebbins at the below address on January 17, 2018.

Mr. David Stebbins
123 W. Ridge St., Apt. D
Harrison, Arkansas 72601

/s/ Christine A. Cryer